

**TESTIMONY OF
ANGELA SANFILIPPO,
President, Gloucester Fishermen's Wives Association,
Member of the Board, Massachusetts Fishermen's Partnership**

**ON REAUTHORIZATION PROVISIONS OF THE
MAGNUSON-STEVENSON FISHERY CONSERVATION AND
MANAGEMENT ACT BEFORE THE
SENATE SUBCOMMITTEE ON OCEANS AND FISHERIES
OF THE SENATE COMMITTEE ON COMMERCE, SCIENCE AND
TRANSPORTATION
APRIL 10, 2000**

Madame Chairperson and members of the Subcommittee, thank you for inviting me to testify on the reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). I am Angela Sanfilippo, President of the Gloucester Fishermen's Wives Association (GFWA) and a member of the Board of Massachusetts Fishermen's Partnership (MFP). GFWA is a founding member of the MFP and I am here representing the Partnership consensus.

The Massachusetts Fishermen's Partnership (MFP) is an umbrella group consisting of 18 commercial fishing organizations representing all of the various gear sectors in Massachusetts. Our organization sponsors the Fishing Partnership Health Plan which provides health insurance for about 1500 persons. The MFP and its member organizations currently represent more than 3000 fishermen and their families.

For the past 4 months, the MFP has been engaged in a formal consensus building process to provide significant input into the Magnuson Reauthorization Legislation. The effort began when a group of 40 fishermen met at the New England Aquarium on January 10th, 2000 to set priorities and establish a Task Force. The task force met twice in February and produced a draft Consensus report. The full group reconvened in March to review the draft report and all of the members have now had an opportunity to comment on the recommendations. The result is a formal document which contains 26 points of consensus agreed to by a large number of Massachusetts Fishermen. It is that report which forms the core of today's presentation.

To summarize, all participants in this process share a common concern for a sustainable fishery. The fishermen developed a consensus to be partners with regulators in management and with scientists in research. In addition, they expressed a desire to be partners with the Coast guard in enforcement. There was also a recognition of the need to redefine the role and organizational structure of the Management councils and other regulatory bodies.

However, before we deal with reorganization, it is necessary to clarify and redefine some of the terms

which have so often led to confusion and dissent about regulatory measures. First and foremost is the term overfishing. A strict adherence to the previous use of this term leads inescapably to the conclusion that all declines in fish stocks are due to overfishing; even in cases when other factors can be shown to be the primary cause (for example, the lobster die-off in Long Island Sound or pollution in the Hudson). This approach is equivalent to saying that the single cause of airplane crashes is overflying and that the passengers are always at fault. Not only is the characterization misleading, it precludes the investigation of the true cause of the crash, such as pilot error or mechanical failure. We are not saying that overfishing or overflying (when a plane is overloaded) cannot occasionally be the primary cause of a crash, merely that it should not be assumed to be the cause without additional evidence.

Other terms battered loosely about in sometimes-contradictory ways have been Maximum Sustainable Yield (MSY), Healthy fishing communities and Best Available Science. This terminology has led to widespread disillusionment with the management process and more than a few lawsuits.

Alternatively, we recommend the following **New Definitions**.

1. **Overfishing** means that amount of fishing mortality, not including mortality or stock population declines from other causes (e.g. pollution or habitat loss, changes in physical or natural environmental conditions, predators, and unknown causes), which decrease spawning biomass to a stock level that results in decreasing stock population over time. Sometimes fishing mortality must be reduced in response to phenomena other than "overfishing", but management definitions should always make it clear when fishing is NOT causing declining stocks.

Maximum Sustainable Yield (MSY) should be dropped from the legislation and replaced by "**Sustainable Yield**" (SY) to reflect more realistic goals. . It has been debated for years whether MSY is even possible to achieve for multiple species simultaneously; especially where there is a complex predator-prey relationship.

2. **Sustainable Yield** - shall be a range of fishing activity sufficient to maintain a sustainable fishery.
3. **Sustainable fishery** - means a fishery that maintains healthy fish stocks *and* a healthy fishing community.
4. **Healthy fish stocks** - mean populations of fish species that are biologically stable or growing in abundance and may include fish stocks that have changed their range or migratory patterns.
5. **Fishing community**- means U.S. vessels, crew, people, and related businesses who earn income as the result of the harvesting or processing of wild fish stocks.
6. **Healthy fishing community** - means a fishing community as defined above that maintains sustainable participation in U.S. fisheries and provides for the social, economic, and cultural needs of such community.
7. **Best Available Science** - means unbiased information based on data that:

integrates current data that is less than 2 years old
must be collected by both government and fishermen working together utilizing the same or calibrated equipment and practices
must meet generally accepted standards with no less than 80% accuracy, defined by the Probability Distribution Function.

As a direct consequence of these new definitions, the following New Requirements for Management Plans are recommended:

Best Available Science as defined above must be used before a stock can be declared "overfished".

All management plans in which fishing mortality is reduced must define causes of declining fish populations:

- from overfishing
- from pollution or habitat loss
- from changes in physical or natural environmental conditions that affect fish stocks
- from predators
- from unknown causes

Data being used in fisheries management must be mailed out to interested parties no less than 30 working days prior to a meeting where the data will be used to make management decisions.

These recommendations, when implemented, would go a long way towards restoring trust and confidence in a management system which sometimes appears to be failing right before our eyes. But, now we would like to address some of the major problems under the current management organizational system.

The government of this country was founded on two basic principles: meaningful representation of all citizens and the separation of powers. Yet, the existing fisheries management system violates both of these fundamental precepts.

While it is true that most of the committees under the Regional Councils have formed advisory panels, the recommendations of these panels carry no formal weight whatsoever. Their recommendations are more likely to be ignored than implemented and the outcome depends entirely on the whim of the committees. We propose that the Advisory Committee Chair shall have a vote on that species sub-committee and on the full Council on issues specific to that Advisory Committee. This will ensure that the voice of the Advisory Committee is heard at the Council level and that any dissenting opinions or alternative recommendations will be seriously considered during plan development and implementation.

Additionally, we believe that the voice of the fishermen will be heard even more strongly if fishermen on the Council are active commercial fishermen. Therefore, fishermen Council members must be elected by fishermen and people in the fishing industry.

This brings us back to the separation of powers issue. Under the current system, the National Marine Fisheries Service (NMFS) is charged with interpreting the provisions of the SFA, issuing guidelines, gathering the data, preparing the stock assessments (under the Science Centers), approving the Fishery Management Plans (FMPs) and enforcing their provisions. No single agency should be entrusted with being prosecutor, judge, jury and executioner.

In practice, the guidelines have unfairly become mandates, and the FMP's have become political footballs based on incomplete data and erroneous assumptions. What is needed now is to put some distance between NMFS and the Science Centers so that the two different functions of the agency are not forced into sharing the same political agenda and budget. We recommend that the Science Centers remain under NOAA and continue to collect and analyze data just like the National Weather Service. Then, all of the permitting and regulatory functions of NMFS could be moved from the Department of Commerce to another Department such as Agriculture. This would guarantee a completely unbiased analysis and an uncontaminated database.

Furthermore, NMFS has previously stated that the 10 National Standards cannot all be met by the regulatory measures. Hence, they have taken it upon themselves to decide when the provisions are sufficiently met to warrant approval of a plan. This is similar to deciding which of the Ten Commandments one chooses to obey which can frequently lead to trouble. We do not believe that selective compliance is what Congress intended when it developed the National Standards. By properly addressing the issue of by-catch, for example National Standard 9, the Management Councils would have the ability to further decrease discards. The present NMFS policy has proven to be the source of dozens of lawsuits and has seriously undermined the credibility of the Agency.

We also propose the creation of a totally independent National Standards Oversight Panel which will monitor NMFS and Council regulations from the Department of Justice. The Panel will report only to the appropriate Secretary and will have statutory power to reject any proposed regulations that do not meet all of the National Standards. Unlike the Councils, no conflicts of interest will be permitted on the panel from environmentalists, fisheries agencies, or industry. Members of the panel will have term limits of no less than two years but will not be political appointees. The panel will not evaluate the entire plans. They will only rule on the 10 National Standards provisions.

We further believe that Management plans should encourage incentives to promote conservation instead of punitive measures. Consequently, there must be a compensation program established as a management tool and this compensation program must be in place before a fishery closure.

The compensation program should be focused on fishermen because other sectors have other options available, while fishermen have none). Compensation should be confined to fishermen in the fishery that is closed as documented by logbooks. It might be linked to other research commitments such as Days at Sea compensation for collaborative research efforts.

We will continue to build consensus to impact fisheries management in the future. The cornerstone of this strategy will be the extension of the sustainable Fisheries Act moratorium on ITQs. In our discussions, we recognized the importance of the issue of by-catch and we will continue to focus our efforts on this problem in order to develop a wider consensus.

In order to promote both safety and conservation, Management plans utilizing Days-at-Sea limitations and daily/trip quotas should allow fishing vessels to run the clock while tied to the dock. Furthermore, Management plans should promote quality instead of commodity as a national fisheries strategy to protect market share and the competitive advantage of family fishing fleets.

Finally, the best input from the industry is of little value if adequate funding is not provided. In particular, research and monitoring should be given a high priority. The fishermen are agreed that NMFS must execute observer coverage of commercial fishing vessels from that sector on any fishery where fish stocks are declining. Without these observers, the Fisheries Service is flying blind and is liable to take the wrong action at the wrong time resulting in a crash. There must be cooperative research funding for these observers and biologists. The research will be done by observers or biologists and fishermen, and will be funded by the federal government. Consensus included using collaborative research money available this year to immediately implement this recommendation in New England.

Also, there should be funding for gear selectivity research and the Saltonstall-Kennedy grant program should be re-designed to support fishing industry generated research AND not fund NMFS enforcement and administration.

Most importantly, Congress should specify adequate funding to establish "Best Available Science" as defined above for fisheries management. Without better scientific data there is little hope of restoring the fish stocks within the ten-year time frame which Congress has mandated.

In conclusion, please allow me to express my gratitude for your kind attention. The painstaking process we have endured these many months has unified commercial fishermen in Massachusetts in ways that are rarely seen in this industry. The fishermen are committed to seeing these recommendations put in place. They will continue to work tirelessly to strengthen the system by engaging in every aspect of fisheries management. They desire to be a full partner in this undertaking.

The recommendations made by the MFP today which are not adopted in the Magnuson Reauthorization Process will not fade away. They will emerge again and again in different forms submitted by different groups. They will prevail because fishermen throughout the country will know that ultimately these proposals are good for the fish and the fishermen. They provide a beacon in the fog that permits a safe and soft landing and avoids a crash which leaves no survivors.

